IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 20TH SEPTEMBER 2006 / 29TH BHADRA 1928

OP.No. 10373 of 1997(I)

PETITIONER:

K.A.ABDUL KHADER, S/O.ABOOBACKER,
AGED 31 YEARS, RESIDING AT
MANCHANICAL HOUSE,
KIZHAKKEANJIKKATH, KOCHI
UNIVERSITY P.O., KALAMASSERY.

BY ADV. SRI.ABOOBACKER PULICKOOL
SRI.M.K.ABOOBACKER

RESPONDENTS:
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1. **THE DEPUTY TAHSILDAR (R.R.)**
KANAYANNUR TALUK, ERNAKULAM.

2. **THE BRACH MANAGER,**
STATE BANK OF TRAVANCORE,
THRIKKAKARA, KOCHI UNIVERSITY P.O.,
KALAMASSERY.

3. **THE STATE OF KERALA,**
REP.BY THE CHIEF SECRETARY,
THIRUVANANTHAPURAM.

BY ADV. SRI.K.K.CHANDRAN PILLAI
GOVERNMENT PLEADER SRI.RAMAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 20/09/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO.18255/1997 IN OP. NO.10373/1997

DISMISSED

20.9.2006 **SD/- C.N.RAMACHANDRAN NAIR, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE RECEIPT SHOWING THE REMITTANCE DT.3.8.1988.

EXT.P2:- COPY OF THE NOTICE DT.22.1.1997 TO THE PETITIONER BY THE 1ST RESPONDENT.

/TRUE COPY/

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C.N.RAMACHANDRAN NAIR,J.

O.P.NO. 10373 OF 1997

Dated this the 20th day of September, 2006

JUDGMENT

Even though notice was issued to the second respondent-Bank, no counter affidavit or statement is filed so far. The case of the petitioner is that debt is barred by limitation. A loan of Rs. 5,000/- was stated to be taken on 25.7.1985. According to the petitioner, he paid the last instalment on 3.8.1988. It is not known as to when revenue recovery proceedings are initiated. If debt is barred by limitation, then of course no recovery is permissible even under the RR Act by virtue of the decision of the Supreme Court in KALYANIKUTTY'S case, (1999) 3 SCC 657. However, if petitioner has made any payment subsequent to 3.8.1988 and if recovery is initiated within three years, then of course recovery is not time barred. Since Bank has not furnished any details before this Court to consider limitation, I direct the first respondent to consider petitioner's claim of limitation in the light of the above decision of the Supreme Court after collecting information from the second respondent-Bank. However, if the debt is

time barred first respondent will close the revenue recovery proceedings and inform the Bank about it. Petitioner will produce a copy of this judgment before the first respondent for compliance.

O.P. is disposed of as above.

(C.N.RAMACHANDRAN NAIR)
Judge